

August 3, 2007

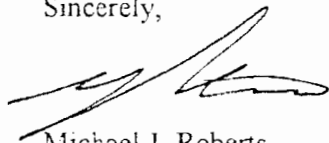
Eric Denoncourt
Civil Engineer & Planner
Town of Shrewsbury
100 Maple Avenue
Shrewsbury, MA 01545

Re: Avalon at Shrewsbury Hills

Dear Eric,

Attached, please find AvalonBay's comments in response to the questions stated by the Town of Shrewsbury in relation to our proposed development.

Sincerely,



Michael J. Roberts
Vice President of Development

Enclosure

Memo



Town of Shrewsbury
Engineering Department
100 Maple Avenue
Shrewsbury, MA 01545

Telephone Number: (508) 841-8502
Fax Number: (508) 841-8497

To: Michael Roberts, AvalonBay Communities, Inc.
From: Eric Denoncourt, Civil Engineer & Planner
CC: Board of Selectmen
Ron Alarie; Judith Barrett, Community Opportunities Group; Michael Hale; Dan Morgado; Jack Perreault; Patty Sheehan
Date: July 25, 2007
Re: 40B RFI Response, AvalonBay Communities, Inc.

On Monday evening, August 6, 2007, the Board of Selectmen will select one or two finalists to return for public hearings on Monday, August 13, 2007. To assist the Board in their selection, the following comments have been compiled. If you have any questions, please feel free to contact me. **Please see AvalonBay's responses to the questions below (in bold):**

1. During the July 16th presentation a comments were made that a single family home development would be pursued if the project is not selected. Please provide additional details regarding the composition and timeline of plans to develop the property if this project is not selected. If not selected, will the decision of the Board be respected or will attempts be made to pursue the project outside the Town's process? **The intent of our proposal is to proceed and respect the process as outlined in the Town of Shrewsbury RFI for Planned Production of Mixed-Income Housing. If our proposal is not selected, other development opportunities may be pursued, including a potential single family home development as permitted under current zoning.**
2. Please describe how your project has a competitive advantage over the other two proposals. **Avalon at Shrewsbury Hills provides a high degree of certainty as it relates to the Town's desire to achieve its Planned Production of Mixed-Income Housing goals. Our development proposal is not subject to outside market conditions in the commercial / retail sector and AvalonBay will act as the sole developer. We are not seeking, nor are we reliant on, any other partner. We have outlined the most attractive mitigation package and AvalonBay has a proven track record in successfully completing similar developments in the Greater Boston area and specifically with the Town of Shrewsbury.**

3. If chosen as the preferred developer, what is the timeline for permitting and construction?
We will work with the Town of Shrewsbury to complete the permitting and construction process expeditiously in order to achieve the Town's Planned Production goals. AvalonBay has a proven track record of not only successfully working with Town's to complete the permitting process but also, once the permitting is complete, completing the construction and lease-up efforts in a timely manner.
4. As part of the mitigation package, is there willingness to create a suitable site plan and construct the necessary infrastructure to make the Allen property pad ready for development by the Town? **Yes.** If yes, what would be the timing for the improvements or would there be a bond posted to guarantee completion of the improvements? **Timing would involve working with the Town to complete the improvements as soon as possible after the permitting process. AvalonBay would be willing to provide financial guarantees for the work.** If the improvements were completed by development team contractors, what value would be assigned for the work and how would the total mitigation be affected? **The value of the work would be determined on an actual cost basis and would involve a dollar for dollar credit from the mitigation package. It should also be noted that a similar program could be implemented for Centech Park and, more specifically, for Centech Park East which abuts our site.**
5. Have there been any further meetings with WBDC regarding coordination of this project with the development of Centech East? Please provide an update regarding any progress toward a resolution of their concerns. **We have continued our discussions with the Worcester Business Development Corporation and have met with David Forsberg, President, and Craig Blais, Executive Vice President. In our discussions, we have reiterated our interest in cooperating with them in their efforts to complete their Centech East development. We continue to view the successful completion of Centech East as a positive amenity to our overall development plan. Not only does Centech Park provide an attractive mixed-use aspect to our proposal, Avalon at Shrewsbury Hills will provide an attractive source of workforce housing to serve both Centech Park and the surrounding employment centers. We are very comfortable having this type of development use in close proximity to our development and, in fact, AvalonBay has several existing communities that abut large scale commercial, retail, and industrial uses.**
6. During the project presentation and in correspondence with WBDC, there is reference to experience with development of similar projects with commercial and industrial abutters. It appears that most of the prior experience cited was in locations where retail development existed prior to the Avalon projects. How many Avalon projects have been constructed abutting vacant commercial or industrial properties and what impacts did the Avalon projects have as abutters to proposed industrial development? Can abutter references be provided for any such examples? **As an example, Avalon at Faxon Park in Quincy, MA was completed prior to the development of a Wal Mart and Roche**

Brothers on abutting land. Avalon Shrewsbury was also completed adjacent to a vacant retail site which is now fully permitted and under construction

7. Comments were made during the presentation indicating the project would be a low impact development. Is the intention to design with industry standards for “Low Impact Development” such as pervious pavement, bioretention areas, green roofs, and other non-traditional drainage systems? **Avalon at Shrewsbury Hills will be constructed utilizing similar techniques as Avalon Shrewsbury and will meet or exceed all State Code requirements related to our buildings, construction techniques and environmental impacts. We will also continue to work under MassHousing’s guidelines for energy conservation (i.e. water reduction and Energy Star appliances).**
8. Will written responses be provided for the June 28th and 29th comment memos? **Yes.**

NOTE: If written responses to these comments are received by Wednesday, August 1st, they will be distributed to the Board for review prior to their meeting on August 6th.

Memo



Town of Shrewsbury
Engineering Department
100 Maple Avenue
Shrewsbury, MA 01545

Telephone Number: (508) 841-8502
Fax Number: (508) 841-8497

To: Michael Roberts, AvalonBay Communities, Inc.
From: Eric Denoncourt, Civil Engineer & Planner
CC: Board of Selectmen
Ron Alarie; Judith Barrett, Community Opportunities Group; Michael Hale; Dan Morgado; Jack Perreault; Patty Sheehan
Date: June 29, 2007
Re: 40B RFI Response, Project Specific Comments/Questions
AvalonBay Communities, Inc.

In addition to the general questions distributed for all projects, please be prepared to address the following specific questions for your project. **Please see AvalonBay's responses to the questions below (in bold):**

1. The proposed development will create a large residential abutter to the proposed Centech East development. This property was rezoned by Town Meeting in October 2005 to increase the town's non-residential tax base. Such a large residential development with a minimal buffer will make permitting, marketing, and development of the industrial park difficult. Is AvalonBay willing to work cooperatively with the town and WBDC to make the projects more compatible? **We have continued our discussions with the Worcester Business Development Corporation and have met with David Forsberg, President, and Craig Blais, Executive Vice President. In our discussions, we have reiterated our interest in cooperating with them in their efforts to complete their Centech East development. We continue to view the successful completion of Centech East as a positive amenity to our overall development plan. Not only does Centech Park provide an attractive mixed-use aspect to our proposal, Avalon at Shrewsbury Hills will provide an attractive source of workforce housing to serve both Centech Park and the surrounding employment centers. We are very comfortable having this type of development use in close proximity to our development and, in fact, AvalonBay has several existing communities that abut large scale commercial, retail, and industrial uses.**

2. As submitted, the proposal is for 444 with an option to increase the development to 502 units. Where would the additional units be located? **The additional units would be located throughout the site and would be achieved through the expansion of the 4-story building footprints and the addition of the higher density direct entry building type (in lieu of the lower density townhome units).**
3. Will the quality of this proposed project be more similar in quality to the examples cited in the RFI response or more similar to the recently constructed Avalon Shrewsbury located on Route 20? **We will work with the Town of Shrewsbury to satisfy all design criteria. With a portfolio of over 5,800 apartment homes in the Greater Boston area, we are confident that we have a comprehensive base of design elements to work with.**
4. What is the potential capacity for ground water discharge on the property? Could additional discharge capacity rights be granted to the Town of Shrewsbury? **While we are confident that the property has the capacity for our ground water discharge needs, it is not our intent to provide for outside capacity rights to be granted to third party users.**
5. The RFI response indicates there are 41 school-aged children living at the 251-unit Avalon Shrewsbury on Route 20. What was the occupancy rate at the time of the count? **Approximately 95%.**
6. Analysis of school aged children is based on students who are “new to the Shrewsbury Public Schools.” What is the total number of school aged children in the development? **Approximately 64.**
7. Looping of the water as suggested in the RFI response will be required to avoid having the development at the end of the system.
8. Multi-family housing at this location is not consistent with the Master Plan; however, the project is generally consistent with the Affordable Housing Plan.
9. Will improvements to Green Street be proposed? **Our plan anticipates providing access to Green Street for emergency vehicles only and, therefore, our current plan for Green Street is limited to providing such access.**
10. The Flynn property is designated as Chapter 61 land. How will the development team address Shrewsbury’s right of first refusal to purchase the land? **We will work with the Town of Shrewsbury and cooperate on all matters related to the Chapter 61 aspect of the Flynn property.**

Memo



Town of Shrewsbury
Engineering Department
100 Maple Avenue
Shrewsbury, MA 01545

Telephone Number: (508) 841-8502
Fax Number: (508) 841-8497

To: Irwin Barkan, I.J. Barkan, Inc.
Kevin Maley, FF Realty LLC
Michael Roberts, AvalonBay Communities, Inc.

From: Eric Denoncourt, Civil Engineer & Planner

CC: Board of Selectmen
Ron Alarie; Judith Barrett, Community Opportunities Group; Michael Hale; Dan Morgado; Jack Perreault; Patty Sheehan

Date: June 28, 2007

Re: 40B RFJ Responses, General Comments/Questions for All Projects

As you are aware, the Board of Selectmen will hold public meetings on July 2nd and July 16th to review the responses to the Requests for Expressions of Interest. The Town Manager's Office, Building Inspector's Office, Engineering Department, and consultant Judith Barrett, have reviewed the proposals and have compiled the general questions listed below for all the projects. Additional specific comments for each project will be distributed to each proponent individually. If you have any questions or need clarification, please feel free to contact me. **Please see AvalonBay's responses to the questions below (in bold):**

1. Explain how your proposal will address the Town's planned production dilemma? **As outlined in our proposal, we are providing maximum flexibility to the Town in both the density and phasing of our development proposal. As a result, our proposal has the potential to satisfy both the Town's planned production needs and achieve the 10% subsidized housing inventory requirement under Chapter 40B.**
2. What expertise do you currently have in house or via your development team in dealing with DHCD and the regulatory environment surrounding Chapter 40B, 40R, 40S, etc.? **AvalonBay has a long standing positive relationship with DHCD that has grown over the 17 plus years we have been developing multifamily housing in the Greater Boston Area. During this time, we have successfully permitted and developed more than twenty-three apartment communities in the Greater**

9. Please address the impact on and requirements of your project on water, sewer and stormwater management infrastructure. **Please see information in our proposal.**
10. Will the entire development be serviced or wired for Shrewsbury electric, cable, and high speed internet? **Yes**
11. The RFI included a request for sprinkler systems to be designed in accordance with the higher standard of NFPA 13, in lieu of NFPA 13R as typically required for residential developments.

NOTE: Handouts and presentations boards are the desired media for the meeting as there will be limited time to hear each proposal. If you prefer to use PowerPoint or another computer aided presentation, we can provide a screen but each project team will need to bring their own lap top & projector. Presentation times will not be extended for setup or technical difficulties so please contact me in advance with any setup needs.

I.J. BARKAN, INC.

5358 Main Street Waitsfield, VT 05673
Phone 802/496-6766 Fax 802/301-1077

July 31, 2007

Maurice M. DePalo
Chairman
Board of Selectmen
Town of Shrewsbury
100 Maple Ave.
Shrewsbury, MA

Re: Expression of Interest
 Planned Production of Mixed-Income Housing

Dear Mr. DePalo:

We have responded to the questions detailed in the Memorandum dated July 26, 2007 and provided to us by Eric Denoncourt and look forward to answering any other questions the Board may have.

Additionally, the Joint Venture group of I.J. Barkan, Inc., Kinco Realty Corp. and SREV LLC, would like to address the relationship between the Town's 40B initiative and our participation in it and our mutual goal of redeveloping the former Spag's property into a vibrant mixed-use project.

We believe that given the mutuality of interests between the Town and the Joint Venture, the parties can work together to achieve the following, which includes:

1. The Town's desire to develop affordable housing, and if possible, in a mixed-use setting;
2. The Town's desire to implement its vision of a mixed-use district within the Lakeway Overlay District;
3. Our desire to include housing within our mixed-use project.

We will propose a course of action which will enable our Joint Venture to deliver affordable housing to the Town in a setting appropriate to the Town's vision as outlined in its RFI and other community plans.

Background

Our Joint Venture was formed and initially began planning this mixed-use project in February of this year. The partners have all worked together before and bring a strong resume of national and local experience, access to capital and the track-record required to bring a project like this to fruition.

Mixed-use development is a relatively new commercial real estate trend and is considered the most complex type of project to successfully effectuate. Intricate planning is required to properly evaluate the characteristics of the development site and market and determine the proper mix of uses and where they should be placed on the site. Also, since many mixed-use projects take place in 'infill' sites similar to the former Spag's site, land assemblage often is a critical obstacle and can typically take from 12 – 18 months to complete.

Land Assemblage Issues

The land assemblage requirements on this project are extremely complicated as we are attempting to acquire control of 9 parcels, all of them less than an acre in size (and totaling less than 4 acres). We communicated with all the parcel owners and then calculated the totality of their asking prices – and found it far in excess of what SREV paid for over 16 acres of land in 2003, less than four years ago.

We are unable to meet the total asking price as it would make the development project economically unfeasible but have continued our discussions to find other creative means to meet the parcel owner's demands and design a viable project.

We believe that based on our discussions with the parcel owners we will eventually be able to sign mutually satisfactory agreements to acquire control of the necessary parcels to move forward. However, as evidenced by our presentation to the Board this process is still on-going and has limited our ability to properly design the project.

Housing Component in this Project

The Joint Venture initially studied the topography and other characteristics of the parcel as well as the market conditions of the Shrewsbury area and determined that housing should be a critical element of this project and we communicated this in our initial meetings with the Town's administrators.

The Town's administrators eventually responded that the only viable avenue to develop a significant housing component would be to respond to the 40B RFI and receive a designation from the Town. Although we had only recently initiated the land assemblage and planning process and the deadlines associated with the RFI appeared difficult to

meet, we nonetheless engaged our planners and development team to develop the best proposal possible.

We did so because we believe that for this project to be a success and for the Lakeway Overlay District to grow and develop in the future, a housing component is essential. Housing provides the grist that makes mixed-use development what it is, enabling people to live, work, dine, shop and be entertained in one setting and not be forced to exclusively rely on automotive transportation to achieve this.

Deadline Issues

However, the Memorandum we recently received from the Town lays down a series of deadlines which we realistically do not expect to achieve. As we indicated in our response, several of the abutters have been closely following this public process and have indicated to us that they will not conclude an agreement unless we are able to demonstrate that we have a Designation. Based on our communications with these abutters we do not believe we can achieve the August 16th deadline for controlling the key parcel owners that was contained within the Memorandum.

We have also supplied an updated permitting schedule for your review. We believe that to properly design the entire mixed-use project we will need to decommission some of the street network located within the development site and will need to remove an existing title restriction on housing in the rear portion of the site. We understand that this will require a Town Meeting vote and that this may further interfere with the Town's schedule.

Please note that the development site presently controlled by the Joint Venture totals over 16 acres and there is enough land available to initiate the development of the housing component we are proposing. The deadline issues cited above generally pertain to the development of the entire mixed-use project.

Proposed Course of Action

Given that we are only partly through a complicated and lengthy pre-development process and that the Town must adhere to a strict time schedule to achieve its affordable housing objectives, we propose the following course of action which we believe will enable both parties to achieve their mutual objectives:

1. We propose that the Town award one initial Designation to one of the other proponents that are better prepared to meet the existing deadlines.
2. We propose that the Town award our project with a 'Conditional Designation' to provide future affordable housing which will assist the Town in meeting its future planned production requirements.

3. The Town would award a mutually agreed amount of housing units to be developed on both Designated Projects on a phasing schedule to be negotiated. We propose that the Town designate a minimum of 300 units to our project.
4. The 'Conditional Designation' would contain mutually agreeable conditions and a specific time period for the Joint Venture to achieve these.
5. One critical condition would relate to the Joint Venture securing ownership or control over certain identified abutting parcels to complete the development site and a specific timetable to achieve this. We believe that this condition will bring the remaining key abutting owners 'to the table' and enable us to effectuate the necessary agreements to move forward.

It would also provide the Joint Venture with a level of certainty regarding the amount of development we can plan for the site and enable us to pay our best price for these parcels. We consider 'site control' to be the most significant obstacle to bringing this project to fruition.

Again, we are committed to moving this project forward on a collaborative basis with the Town. The above reflects what we believe represents the best design for this project and for the future growth of the Lakeway Overlay District.

We would be pleased to discuss this in greater detail with you and the Board of Selectmen and look forward to hearing from you.

Sincerely,

Irwin Barkan
President
I.J. Barkan, Inc.

On behalf of I.J. Barkan, Inc., Kimco Realty Corp. and SREV LLC.

CC: Ed Senenman, Kimco Realty Corp.
Norm Greenberg, SREV LLC
Robert Longden, Bowditch & Dewey
Daniel Morgado, Town of Shrewsbury
Eric Denoncourt, Town of Shrewsbury

DRAFT - FOR DISCUSSION PURPOSES ONLY

**L.J. BARKAN, INC.
MIXED USE DEVELOPMENT
ROUTE 9
SHREWSBURY, MASSACHUSETTS**

STATE AND MUNICIPAL PERMITTING TIMELINE

Permit	September - 07	October - 07	November - 07	Dec. - 07	Jan. - 08	Feb. - 08	March - 08	April - 08	May - 08	June - 08	July - 08
Town Meeting: Discontinuance of public and private streets, termination of Restrictive Covenants and amendments to Zoning By-law Have Board of Selectmen place discontinuance of public and private streets, termination of Restrictive Covenants on warrant for Town Meeting Prepare for and file Petition with Board of Selectmen to amend Zoning By-law. Selectmen refer Petition to Planning Board for public hearing	Meet with Town staff regarding discontinuance of public and private streets, termination of Restrictive Covenants and amendments to Zoning By-law	Planning Board hearing re proposed amendments to Zoning By-law, recommendation to Town Meeting	Town Meeting and vote								

Permit	September - 07	October - 07	November - 07	Dec. - 07	Jan. - 08	Feb. - 08	March - 08	April - 08	May - 08	June - 08	July - 08
Concept Plan and Site Plan	Finalize Concept Plan	Prepare ALTA Survey, obtain title insurance commitment, prepare Preliminary Site Plan, meeting with Town staff, informal meeting with Planning Board to determine support for project and permitting and design issues, will need concept plan, parking proposal, stormwater mitigations, architectural elevations, landscaping plan, and recommend scope of traffic study.	Continued preparation of Site Plan, meeting with Town staff and officials as needed	Continued preparation of Site Plan, meeting with Town staff and officials as needed	Finalize Site Plan and related submittals for filing with Planning Board	Feb. 08 - June 08 Revise Site Plan and Design Plan as necessary in response to comments from Planning Board during public hearings. [We should try to collect all comments received during the course of the hearing and do one or two revisions at the end].					
Note: Timeline may need to be extended 60-120 days due to delays in completing certain tasks, scheduling conflicts, etc.											

Permit	September - 07	October - 07	November - 07	Dec. - 07	Jan. - 08	Feb. - 08	March - 08	April - 08	May - 08	June - 08	July - 08
Traffic Impact Study		Define scope of traffic study, perform preliminary assessment of traffic impacts, including access and signalization issues, determine whether state (MHD) highway access permits will be required and the likelihood of obtaining them	Initial meeting with Planning Board and staff to obtain feedback re traffic issues; meet with Town Planner, Peer Review Engineer, Building Inspector and MHD as necessary re traffic mitigation issues and access permits; prepare draft of traffic impact study; submit draft traffic impact study to MHD and Town for review and obtain comments; revise traffic impact study as needed		Obtain approval of Town Planner, Peer Review Engineer, Building Inspector and MHD for final traffic impact study	File Traffic Impact Study with Planning Board	Nov. 07 - March 08 Finalize Traffic mitigation measures in response to comments from Planning Board, supplement the Traffic Impact Study as necessary				
Massachusetts Secretary of Environmental Affairs; Massachusetts Environmental Policy Act (MEPA)* (if necessary)		Meeting with MEPA staff re jurisdictional issues and/or scope of environmental notification form (LNF); determine whether project is subject to MEPA jurisdiction and meets or exceeds one or more review thresholds	Prepare ENF; may prepare an expanded LNF to pre-empt potential issues	File ENF with Secretary of Environmental Affairs; notice of LNF published in The Environmental Monitor; begin 30 day review and comment period (37 days in the case of an expanded ENF)	Prior to close of comment period (30-37 days from filing); Secretary issues written decision whether environmental impact report (EIR) is required; and if so the scope of the EIR						
*Note: If it is determined that it is necessary to file and ENF, normally the ENF would be filed and the Secretary's determination received before applications would be filed with municipal permit granting authorities and therefore the timeframes for applying for and obtaining municipal permits would need to be extended. If one or more state highway access permits are required, then it is likely that MEPA review will be required and a traffic impact study would be submitted as part of the LNF.											

Permit	September - 07	October - 07	November - 07	Dec. - 07	Jan. - 08	Feb. - 08	March - 08	April - 08	May - 08	June - 08	July - 08
<p>*Note: Timeline may need to be extended 60-120 days due to delays in completing certain tasks, scheduling conflicts, etc.</p>											
Shrewsbury Planning Board: (1) Special Permit for mixed use development. (2) Special Permit for relief from maximum front yard setback (if required). (3) Special Permit for relief from parking requirements (if necessary), and (4) Site Plan Approval.	April 07 - Sept. 07 Prepare zoning and permitting analysis including municipal and state permits (including MIPA), prepare timeline for obtaining permits, prepare strategies for obtaining permits		Pre-filing meeting with Planning Board (see above), begin preparation of petitions and submittals to Planning Board	Prepare and file Applications for Special Permits and Site Plan Approval with Planning Board	First Hearing - Shrewsbury Planning Board; public hearing must be held within 65 days of filing application	Feb. 08 - June 08 Hearing before Shrewsbury Planning Board File copies of approved Site Plan with all revisions with planning Board; decision signed by Shrewsbury Planning Board and filed with Town Clerk within fourteen (14) days of favorable decision. Twenty (20) day appeal period expires and special permit decisions are available to record. If special permits or Site Plan Approval appealed appeal may be brought or transferred to the new permit session of the MAI and Court. 6-12 months to trial plus 2-4 months to decision depending upon assignment track. Petitioner has right to build at its own risk during appeal.					July 08 - August 08 If no appeal Building Permit to be applied for and issued
<p>*Note: We will have a better sense as to the nature of any opposition and the likelihood of an appeal after we have had further meetings with Town officials and the proposal becomes public.</p>											

Permit	September - 07	October - 07	November - 07	Dec. - 07	Jan. - 08	Feb. - 08	March - 08	April - 08	May - 08	June - 08	July - 08
*Note: Timeline may need to be extended 60-120 days due to delays in completing certain tasks, scheduling conflicts, etc. Shrewsbury Conservation Commission: Notice of Intent (NOI)	Informal meeting with Conservation Commission, prepare NOI, Stormwater Pollution Prevention Plan (SWPPP) and other required submittals	File NOI and other required submittals with Conservation Commission	Jan. 08 - April 08 Hearings before Con. Comm. Order of Conditions issued Order of Conditions is subject to appeal to Department of Environmental Protection within 10 days of issuance. If Order of Conditions is appealed, appeal process would take 12-18 months								
*Note: Timeline may need to be extended 60-120 days due to delays in completing certain tasks, scheduling conflicts, etc.											

Memo



Town of Shrewsbury
Engineering Department
100 Maple Avenue
Shrewsbury, MA 01545

Telephone Number: (508) 841-8502
Fax Number: (508) 841-8497

To: Irwin Barkan, I.J. Barkan, Inc.
From: Eric Denoncourt, Civil Engineer & Planner
CC: Board of Selectmen
Ron Alarie; Judith Barrett, Community Opportunities Group; Michael Hale; Dan Morgado; Jack Perreault; Patty Sheehan
Date: July 26, 2007
Re: 40B RFI Response, I.J. Barkin, Inc., Kimco Realty Corp., SREV LLC

On Monday evening, August 6, 2007, the Board of Selectmen will select one or two finalists to return for public hearings on Monday, August 13, 2007. To assist the Board in their selection, the following comments have been compiled. If you have any questions, please feel free to contact me.

1. During the July 2nd presentation many comments were made about how the project team contacted the town and had intentions to develop this site long before the Town issued the RFI. However, written comments state the project would not move forward if the site is not selected for the 40B. If the project was planned long before the 40B RFI, why would the project not go forward in some other form? Is there any willingness to work with the Town to redevelop the site through other means?

The Joint Venture Team (I.J. Barkan, Inc, Kimco Realty Corp. and SREV LLC) initially met with Town representatives in late February and related to them that based on our preliminary assessment of the development site, we considered housing to be an important part of our project. We believe that housing plays an integral role in successful mixed-use development and given the characteristics of the site represent the highest and best use of the rear portion.

When the RFI was issued, members of the Town's administration asked that we participate in this process and indicated that if we wanted to develop a significant housing component this would be the only viable avenue to accomplish this.

If we do not receive a designation then the Joint Venture needs to understand what the Town hopes to achieve with this site and what amount of housing would be contemplated, so we can design a viable development plan.

The Joint Venture, which also includes the current land owner (SREV LLC), is committed to working collaboratively with the Town to successfully redevelop the property.

2. Please describe how your project has a competitive advantage over the other two proposals.

We believe that this site is a key development component to the Lakeway Overlay District and Route 9 corridor of Shrewsbury and, if successfully redeveloped, will serve as a catalyst for future mixed-use development in the overlay district.

This area of Shrewsbury serves as an important 'gateway' for the Town. It establishes a community 'identity' for both its residents and others traveling here to conduct business. It also serves as a vital commercial area that should be generating the optimal amount of property and other tax revenue for municipal uses.

We believe that the redevelopment of the site with a signature mixed-use project will enable the Town to achieve these objectives. It will serve as an important catalyst in replacing the low-density uses on the current site and adjacent to it with more appropriately designed mixed-use elements.

Given the increased traffic that comes with housing development we believe that a mixed-use environment envisioned in the Lakeway Overlay District is the most appropriate place to site this.

3. Will the frontage properties along Route 9 be under agreement by August 16th? If not, what is the status of negotiations with the property owners? If available, please provide a conceptual site plan for the project if these projects are not acquired.

We do not expect to acquire control of the key abutting parcels by August 16th.

While we have communicated and/or engaged in discussions with all the abutters listed in our Expression of Interest since March, and while we have made progress, we still require more time to complete mutually satisfactory agreements.

The land assemblage contemplated for this project is very complex and time-consuming given that we have been engaged in discussions and negotiations to acquire 9 different parcels.

These owners all have different agendas and needs and we are doing our best to accommodate this and still design a financially viable project.

We believe we need to acquire 4 key parcels located in the front portion of the development site to develop a viable plan. One of these parcel owners has explicitly told us that they will not negotiate an agreement unless we receive a designation from the Town and two other parcel owners have indicated the same thing.

We believe we can successfully conclude agreements with these parcel owners if we are able to demonstrate to them that we have a designation from the Town conditioned with a firm deadline to acquire their properties. We will address this in greater detail in a separate correspondence.

4. Given the Town Meeting action and infrastructure relocation required, if chosen as the preferred developer, what commitments will be made to insure development? Is there willingness to post a bond or make cash payment to the Town if the project is abandoned after being chosen due to circumstances not related to Town or state approvals?

We are willing to negotiate an agreement with the Town that takes these issues into consideration.

5. Please provide a detailed list of any mitigation you are proposing, including any fees that are required as part of permitting (sewer and water connection fees).

The Joint Venture is prepared to negotiate a mitigation schedule with the Town and will commit to providing a schedule similar to what was previously proposed by Fairfield Residential.

6. Kimco Realty Corp. is the most experienced member of the development team and appears to be the only member of the team with mixed-use experience but they did not speak during the project presentation and have attended only one meeting with Town staff. Is there a signed agreement with Kimco Realty Corp. to develop this site? Are there any conditions that would impact their involvement in the development such as ability to acquire the Route 9 frontage parcels or interior parcels?

Kimco Realty Corp., I.J. Barkan, Inc. and SREV LLC have executed an agreement to develop the site and the development partners have invested considerable time and money in the pre-development phase of this project. The agreement is subject to the typical conditions of a

development agreement including our ability to secure a viable development site and obtain the necessary municipal and other permits needed to develop a financially viable project.

Please note that the entire Joint Venture Team, I.J. Barkan, Inc. Kimco Realty Corp. and SREV are committed to developing a project that the Town can be proud of and serve as an effective catalyst for future mixed-use development in the Lakeview Overlay District.

Kimco has a portfolio exceeding 1,100 properties and is currently involved in over 50 major development projects around the country. In many of these projects, Kimco relies on its local partner to represent its interests, especially at public hearings. Please note that the Joint Venture Team communicates on a daily basis and all major decisions are made on a mutual basis.

Per our agreement, I.J. Barkan, Inc. acts as the local partner and has a specific set of responsibilities, including representation of the Joint Venture at public hearings.

I.J. Barkan, Inc. and Kimco Realty Corp. have a long-term business relationship. They are partners in a major shopping center property located in Haverhill, MA, which is operated in unison (through a reciprocal easement agreement) with the principals of SREV LLC. This agreement and business relationship between Barkan and the SREV principals has existed since 1983. Barkan and Kimco are also involved in other major acquisition and development projects in Rhode Island, Utah and Canada. The Founder and CEO of Kimco and principals of I.J. Barkan, Inc. have had an on-going business relationship for over 25 years.

In summary both the Land Owner and the Developer have been represented at all meetings by decision making equity partners with personal stakes and investment in the outcome of the RFI.

The pertinent conditions that impacts the development of the site is acquiring the key abutting parcels that will enable the development team to effectively design a mixed-use project and obtaining the municipal and other approvals to develop a financially viable project.

7. Many of the responses to comments in the memorandums distributed to the Board at the July 2nd presentation are very generic in nature and lack project specific details.

As we indicated at the hearing, key components of our project are still being designed and are impacted by our ability to secure the abutting parcels necessary for a viable project. A major mixed-use project with this type of land assemblage and design issues can not be properly designed in a short period of time (in our case only 4 months). For instance, Fairfield noted in its presentation that it has had site control for nearly a year and this was reflected in its more refined plan.

The land assemblage contemplated for this project is very complex and time-consuming given that we have been engaged in discussions and negotiations to acquire 9 different parcels. These owners all have different agendas and needs and we are doing our best to accommodate this and still design a financially viable project

In order to meet the RFI deadline that the Town asked us to participate we were forced to submit a plan that is obviously still a work in progress.

8. Please provide a detailed phasing schedule for the project permitting and development.

Please see the attached memorandum from Bowditch & Dewey which outlines in detail the permitting required for this project. Please note that this timeline pertains to the permitting of the entire mixed-use project.

9. Written responses to general comment #9 and project specific comment #6 relative to sewage capacity limits at the wastewater treatment plant were not provided. Based on the Sewer Allocation Study, CWMP, and most recent flow data, there is no additional capacity available for new residential flows. If onsite treatment and disposal of sewage flows is not feasible at this site, then removal of sanitary flows going to the WWTP at an alternative site will be necessary to accommodate the additional residential flow. Additionally, capacity limitations at downstream pump stations, including Rolfe Avenue will not accommodate flows from this project.

Our engineers have performed a preliminary site review and believe that the availability of the site to accommodate wastewater disposal is dependant on a thorough test pitting and percolation testing program on site. We are prepared to move forward with this in the future.

Because the project site will likely require some earthwork (cut and fill), this may allow us to incorporate a mounded wastewater disposal system and if needed, a wastewater treatment system. A program of testing would take approximately 6 weeks to complete and report to the Town of Shrewsbury. Any additional wastewater not feasible to be disposed of on site will have to be mitigated through an inflow and infiltration review of this area of the Town. We are prepared to work with the Town Engineering Department in order to eliminate the worst of the I & I problems.

NOTE: If written responses to these comments are received by Wednesday, August 1st, they will be distributed to the Board for review prior to their meeting on August 6th.



FLETCHER, TILTON & WHIPPLE
C O U N S E L O R S A T L A W

Memo

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To: Eric Denoncourt, Civil Engineer and Planner

From: Kevin Maley, FF Realty, LLC and
Mark L. Donahue, Esquire

Date: August 3, 2007

RE: 40B/40R Response/Fairfield Residential, LLC

The following written responses are provided to the thirteen points raised in your memorandum of July 25, 2007. The responses are in the order as presented in your memorandum:

- 1. During the project presentation on July 16th, comments were made indicating that the project could be permitted through the Lakeway Overlay District if the zoning district line were extended to include the entire project site. However, written responses state that the additional density afforded by 40B is necessary to make the project a success. If the project is not selected, is the development team willing to work with the Town to permit a successful mixed use project by adjusting the Lakeway bylaws and expanding the district boundary?*

The development constraints contained in the current Lakeway Overlay District, particularly the limitations on residential density and the significant site development costs would render the development economically unfeasible. While Fairfield Residential would be interested in exploring adjustments to the Lakeway Bylaw and expansion of the district boundary it would be necessary for the Town of Shrewsbury to provide an early and concrete commitment to permit residential density for 300 or more residential units. In addition, the Town should recall that the density required to make a Lakeway Overlay District Development successful would not count to the subsidized housing inventory in any significant respect.

Further, Fairfield Residential has concerns whether the Metrowest marketplace as focused in Shrewsbury could adequately absorb both a large scale 40B/40R development as being sought by the Town plus a Lakeway Overlay District development that would have a residential density of 300 or greater units, particularly in the short term. There should be a serious concern relative to market saturation. It is unlikely that a large scale mixed use development in the Lakeway Overlay District would proceed (particularly given the suggestions by the Town desiring to have linkage with the commercial development) while at the same time a development of the magnitude such as proposed by Avalon off of Centech Boulevard was also proceeding. The Town needs to view those proposals as mutually exclusive alternatives.



2. *Please describe how your project has a competitive advantage over the other two proposals.*

The competitive advantage enjoyed by the Fairfield Residential development is focused on the redevelopment of a blighted property at the gateway to the Lakeway Overlay District with a mixed use project that accomplishes both the goals set forth by the Town for the Lakeway Overlay District and assists the Town in achieving the Town's affordable housing goals. The proposal and its incorporation of a Chapter 40R component provides significant financial benefits to the Town and Fairfield Residential has presented a development team that is experienced in these matters that has the skill, resources and experience necessary to immediately proceed to achieve the Town's time line. As previously discussed, Fairfield is prepared to work with the Town for LIP approval immediately so as to obtain a competitive advantage over any adverse 40B filings in Shrewsbury.

The benefits over the Avalon proposal are most striking. The Avalon proposal creates an inherent conflict of residential uses in direct proximity to land targeted by the Town of Shrewsbury Master Plan for industrial and commercial development. The Avalon proposal also has the impact of utilizing a significant portion of the traffic capacity created by the construction of Centech Boulevard for a use not contemplated by the construction, namely residential use. Those factors will in all likelihood impair the future development of the commercially zoned property along Centech Boulevard. The availability of Route 9 and the other roadways proximate to the Fairfield development make it a site easier to manage the traffic impacts of a large scale residential mixed use development.

3. *For this project to be a true success and gateway project for the Lakeway Business District as mentioned in the presentation, the project must be compatible with community character. Inclusion of Mr. Fran Polito could be a great asset to this project with his experience working in Shrewsbury. Since he did not speak during the presentation, please expand upon his level of involvement and goals for the project.*

Mr. Polito has been involved early in the development of the Fairfield conceptual plan. He has been instrumental as a liaison to the owners of the property and has provided significant insight from his experience in the Town of Shrewsbury as a commercial developer. He has also assisted with the conceptual design plan for the proposed project. He will continue to be involved throughout the permitting process as an advisor to Fairfield. Further, Polito Development Corporation and Fairfield are contemplating a direct and greater involvement in the development of the commercial portion of the property by Mr. Polito's company.



4. *Packard Development was mentioned during the project presentation on July 16th and their representative attended a meeting with Town staff for this project in March of this year. Are they currently part of the development team?*

Packard Development remains a leading candidate to be the retail partner of Fairfield Residential for the proposed development. However, there are a number of other regional and national firms who have expressed strong interest in the project. It is Fairfield's experience that there are a number of highly qualified and skilled retail and commercial developers and that the field is extremely competitive. Conversely, the number of experienced and qualified developers of residential developments of the magnitude contemplated are fairly limited with Fairfield and Avalon being the leaders in that sector of the industry.

5. *Will there be a written agreement with a commercial developer by August 16th?*

It is not the intention of Fairfield to select a commercial partner prior to August 16th. Fairfield believes that the interest of the commercial sector will be heightened once Fairfield is selected as the preferred developer. It is anticipated that there will be a written agreement with a commercial developer that will be made part of the application of Fairfield Residential pursuant to Chapter 40B which will be filed with the Town on or before October 1, 2007.

6. *Is there a written agreement with the Masonic Lodge or will there be one by August 16th?*

A letter of intent will be submitted by Fairfield to the Masonic Lodge prior to August 16, 2007. Fairfield cannot commit whether the Masonic Lodge will respond prior to the August 16th date set forth in your question.

7. *If chosen as the preferred developer, what commitments will be made in writing to insure the project will be developed? Is there willingness to post a bond or make a cash payment to the Town if the project is abandoned due to circumstance not related to Town or state approvals?*

Fairfield anticipates expending significant resources in the design and permitting of the proposed development. Fairfield has available the equity sources needed to proceed with a development of this magnitude (Fairfield has averaged more than 2 Billion Dollars of development per year for the last few years) and remains extremely positive of the market in the Greater Worcester area. The security sought by the Town is obtained through the selection of an industry leader such as Fairfield. The serious nature that Fairfield has brought to the development is evidenced by Fairfield's involvement with the site and discussions with the Town which predated the RFI process, unlike the competing proposals which commenced after the Town began the RFI process.



8. *If the site is selected to move forward as a 40R development, will the payments be guaranteed if not funded by the state?*

During the course of its presentation to the Board of Selectman, Fairfield Residential submitted a description of the proposed fees and mitigation, a copy of which is attached. The Chapter 40R incentive payment in the amount of \$350,000.00 is guaranteed to be paid by Fairfield Residential if not paid by the Commonwealth of Massachusetts. The Chapter 40R "bonus" payment of \$3,000.00 for each unit in excess of those permitted by the underlying zoning, which is \$891,000.00 is not guaranteed by Fairfield Residential; however, Fairfield is committed to making a separate and distinct mitigation payment to the Town in the amount of \$1,005,000.00 in conjunction with the development. Finally, the Chapter 43D technical assistance grant in the amount of \$150,000.00 is guaranteed by Fairfield Residential in the event the Commonwealth does not make payment in whole or in part.

9. *Based responses to general comment #9 and project specific comment #5, it appears the development team has not reviewed the Sewer Allocation Study and Phase III of the Comprehensive Wastewater Management Plan (CWMP) as recommended in RFI Addendum issued on May 8, 2007. Based on these reports and most recent flows at the wastewater treatment plant, there is no additional capacity available for new residential flows. The Fairfield submittal and response to comments only address I & I removal and capacity at the Rolfe Avenue Pump Station. Aggressive removal of I & I has already been accounted for in the CWMP. If onsite treatment and disposal of sewage flows is not feasible at this site, then removal of sanitary flows going to the WWTP at an alternative site will be necessary to accommodate the additional residential flow.*

The CWMP was reviewed by Fairfield Residential and Tetra Tech Rizzo in the course of development of the proposal. That report was also read in conjunction with various discussions Fairfield Residential had with various Town officials in Shrewsbury with regard to sewer allocation, availability and overall plans. Fairfield is cognizant of the constraints outlined in the CWMP and is committed to look at various alternatives. The concept of diversion to an alternative wastewater treatment facility is an issue that Fairfield is very familiar with. As discussed in the presentation, the ability of Fairfield to construct its Marlborough development was based upon Fairfield designing, permitting and constructing diversion methods within Marlborough between different treatment plants. There is also the possibility of evaluating alternative disposal sites owned by the Town of Shrewsbury in the area of the proposed development which also need to be explored. These alternatives will need an opportunity for further study which, at the present time, is somewhat premature given the nature of the RFI process.

10. *Improvements to the Maple Avenue intersection to allow a left turn onto Route 9 eastbound should be further evaluated. A meeting with Mass Highway and the*



Shrewsbury Engineering Department should be scheduled to discuss the feasibility of these improvements as soon as possible.

Fairfield and Tetra Tech Rizzo have conducted initial investigation of the possible improvements to the Maple Avenue intersection. Initial assessments indicated that a left turn lane on Maple Avenue approach can be provided with limited right of way impacts and nominal takings. Further, preliminary capacity analysis was also completed assuming provisions for left turns are made. Based upon 2005 and 2025 traffic volumes provided in the functional design report prepared by Mass. Highway, the intersection is expected to operate under capacity in 2005 and currently, just over capacity in 2025 during the afternoon commute at peak periods. Fairfield agrees that meetings with Mass. Highway are appropriate once Fairfield has been selected as the preferred developer under the Town's current process.

- 11. In the response to specific comment #4, reference is made to "...initial contact with (or attempts to contact the owners..." of the Subway and Car Wash properties. What is the specific extent of conversations with the owners? Acquisition of these properties should be pursued further. If attempts to contact the owners fail, the Town may be able to assist.***

The commercial real estate broker engaged by Fairfield Residential has been in contact with one of the owners and has attempted to reach the other owner. Discussions that have occurred to date have indicated that one of the owners is seeking a price which exceeds the value of the property given the physical constraints and the limitations of development. In addition, there are significant physical hurdles in attempting to coordinate the land in question with the overall development. However, Fairfield Residential can understand the desire to possibly have these sites included and further discussions will be had to see if an acceptable arrangement can be achieved. The Town's assistance in this effort would be welcome.

- 12. The mitigation handout distributed at the July 16th meeting includes \$150,000 for a 43D technical assistance grant. Shrewsbury has already received a 43D grant and may not be eligible for another grant. Comments made during preparation of the first grant application indicate that future grants may be limited to \$50,000 for individual sites.***

The availability of the Chapter 43D Technical Assistance Grant in Shrewsbury has not been fully investigated by Fairfield. If and to the extent there are limitations on the availability of such grant from the Commonwealth, the payment of the \$150,000.00 grant is guaranteed by Fairfield as set forth in response to question 8 above:

- 13. During the project presentation, a reference was made to an estimate of annual tax revenue that will be generated for the commercial portion of this project.***



How much was this estimate and was the amount determined? If available, please submit a copy of the methodology and calculations.

The estimate of annual tax revenue is, of course, simply a projection of the value of the commercial component of the development. Assuming that the commercial component has a value of \$150.00 per gross square foot, the total fair market value of the commercial component of the development would be \$24,750,000.00. Using an estimated tax rate of \$9.00 per \$1,000.00, the annual tax revenue from the commercial development would be \$222,750.00. While this entire tax revenue would not be available upon commencement of the development, it constitutes a continuing income stream to the Town well beyond any applicable time lines relevant to affordable housing.



**PROPOSED FEES AND MITIGATION
FAIRFIELD RESIDENTIAL
335 DWELLING UNITS AND 165,000 SF COMMERCIAL**

1. CHAPTER 40R INCENTIVE PAYMENT	\$ 350,000.00
2. CHAPTER 40R BONUS PAYMENT (3,000 X 297) (from DHCD)	\$ 891,000.00
3. FAIRFIELD DENSITY MITIGATION PAYMENT	\$1,005,000.00
4. CHAPTER 43D TECHNICAL ASSISTANCE PERMIT	\$ 150,000.00
5. SEWER CONNECTION FEE	\$1,400,000.00
6. WATER CONNECTION FEE	\$2,000,000.00
TOTAL	\$5,796,000.00